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EXAMINER
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ART UNIT	PAPER NUMBER
3629	

DATE MAILED: 03/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>28 January 2003</u> .

2a) ☒ This action is **FINAL**.   2b) ☐ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-77</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) <u>1-20,22-70,and 72-77</u> is/are rejected.

7) ☐ Claim(s) <u>21 and 71</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Claim Objections

1. Claims 21 and 71 are objected to as being dependent upon a rejected base claim, but would

be allowable if rewritten in independent form including all of the limitations of the base

claim and any intervening claims.

Claim Rejections - 35 USC § 112

2. The rejection of Claims 1, 54, and 62 under 35 U.S.C. 112, first paragraph, is withdrawn.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

4. The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999

(AIPA) do not apply to the examination of this application as the application being examined

was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C.

122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the

amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. <u>Claims 1-10, 12-19, 22-38, 40-59, 61-69, and 72-77</u> are finally rejected under 35

    U.S.C. 102(e) as being anticipated by Baumgarten et al. (US 2002/0026452 A1).

6. As per independent Claims 1, 30, 54, and 62, Baumgarten discloses a method *(system,*

    computer executable program code, or business method) for qualifying candidates for

    employment with an employer, said method *(system, computer executable program code, or*

    business method) comprising: executing a computer program, said computer program

    receiving as input from said employer a desired hiring criteria of said employer; based on

    said desired hiring criteria of said employer, said computer program generating at least one

    customized application program that is executable to interact with candidates for employment

    with said employer and determine whether each of said candidates is qualified for

    employment with said employer; *allowing said candidates access to the at least one*

    generated customized application program; and responsive to input from each of said

    candidates to the at least one generated customized application program, said at least one

    generated customized application program automatically determining whether each of said

    candidates qualifies for a position of employment with the employer (Abstract, Para 0010-

    0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

7. As per Claims 2 and 34, Baumgarten discloses wherein said desired hiring criteria includes at

    least one criteria selected from the group consisting of: candidate's education, candidate's

    work experience, candidate's possessing a particular license, candidate's language skills, and

    candidate's computer skills (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046,

    Clms 1-9, Fig.1-3).

8. As per Claim 3, Baumgarten discloses wherein said computer program provides a predetermined list of hiring criteria for selection by said employer as said desired hiring criteria (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

9. As per Claim 4, Baumgarten discloses wherein said computer program allows said employer to input additional hiring criteria not included on said predetermined list (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

10. As per Claims 5 and 35, Baumgarten discloses wherein said computer program includes a user interface for interacting with said employer to receive as input said desired hiring criteria from said employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

11. As per Claim 6, Baumgarten discloses wherein said computer program receiving said desired hiring criteria further includes: receiving said desired hiring criteria from a user interface (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

12. As per Claim 7, Baumgarten discloses wherein said user interface is a separate program executable to communicative with said computer program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

13. As per Claims 8, 36, and 57, Baumgarten discloses wherein said at least one customized application program is executable to interact with a candidate to enable said candidate to self-administer a qualification session for a position of employment with said employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

14. As per Claims 9, 37, and 58, Baumgarten discloses wherein said at least one customized application program enables access by one or more candidates via at least one

communication platform (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

15. As per Claims 10, 38, and 59, Baumgarten discloses wherein said at least one communication platform includes platforms selected from the group consisting of telephony-based platform, web-based platform, and other processor-based platforms (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

16. As per Claims 12, 40, and 61, Baumgarten discloses wherein said at least one customized application program includes a web-based application that enables access by one or more candidates via a processor-based device via the World Wide Web (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

17. As per Claims 13 and 41, Baumgarten discloses wherein said generating step includes: generating a plurality of said customized application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

18. As per Claims 14 and 42, Baumgarten discloses wherein each of said plurality of customized application programs is executable to enable interaction with candidates via a different communication platform (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

19. As per Claim 15, Baumgarten discloses said computer program receiving as input from said employer preferences of said employer as to characteristics of said at least one customized application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

20. As per Claim 16, Baumgarten discloses wherein said computer program receives as input

from said employer indication of one or more communication platforms on which said at

least one customized application program is to enable access by candidates (Abstract, Para

0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

21. As per Claim 17 and 67, Baumgarten discloses wherein said at least one customized

application program is executable to assist in further screening of candidates beyond

determining whether based on said desired hiring criteria said candidates qualify for a

position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037, Para

0041-0046, Clms 1-9, Fig.1-3).

22. As per Claims 18 and 68, Baumgarten discloses wherein said at least one customized

application program is executable to schedule future testing with a candidate determined

based on said desired hiring criteria to be qualified for a position of employment with the

employer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

23. As per Claims 19 and 69, Baumgarten discloses wherein said at least one customized

application program is executable to administer testing of a candidate determined based on

said desired hiring criteria to be qualified for a position of employment with the employer

(Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

24. As per Claims 22 and 72, Baumgarten discloses wherein said at least one customized

application program is executable to forward supplemental materials to hiring personnel of

the employer for a candidate determined based on said desired hiring criteria to be qualified

for a position of employment with the employer (Abstract, Para 0010-0011, Para 0030-0037,

Para 0041-0046, Clms 1-9, Fig.1-3).

25. As per Claims 23, 44, and 73, Baumgarten discloses wherein said supplemental materials

include at least one of the materials selected from the group consisting of candidate resume,

writing sample, questionnaire, letter of recommendation, and school transcript (Abstract,

Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

26. As per Claims 24 and 74, Baumgarten discloses wherein said at least one customized

application is executable to forward said supplemental materials to hiring personnel

electronically (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-

3).

27. As per Claims 25, 47, and 75, Baumgarten discloses wherein said at least one customized

application is executable to forward said supplemental materials to hiring personnel via at

least one communication method selected from the group consisting of e-mail and fax

(Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

28. As per Claims 26 and 76, Baumgarten discloses the step of said at least one customized

application receiving said supplemental materials from a candidate (Abstract, Para 0010-

0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

29. As per Claims 27, 45, and 77, Baumgarten discloses wherein said at least one customized

application receives said supplemental materials via at least one of the following methods:

fax, e-mail, and digital imaging device (Abstract, Para 0010-0011, Para 0030-0037, Para

0041-0046, Clms 1-9, Fig.1-3).

30. As per Claim 28, Baumgarten discloses the step of said at least one customized application

program outputting to a candidate determined by said customized application program as not

qualifying for a position of employment with the employer one or more reasons for said candidate not qualifying (Abstract, Para 0048, Fig.1-3).

31. As per Claim 29, Baumgarten discloses the step of storing to a database, information about a candidate received by said at least one customized application (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

32. As per Claim 31, Baumgarten discloses wherein said processor-based device is a device selected from the group consisting of PC, workstation, laptop computer, and PDA (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

33. As per Claim 32, Baumgarten discloses wherein said processor-based device is a server computer (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

34. As per Claim 33, Baumgarten discloses wherein said server computer comprises a web server (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

35. As per Claim 43, Baumgarten discloses an input device communicatively coupled to said processor-based device to enable candidates to input supplemental materials to said processor-based device (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

36. As per Claim 46, Baumgarten discloses wherein said at least one application program is executable to electronically communicate said supplemental materials to hiring personnel (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

37. As per Claim 48, Baumgarten discloses a data storage device communicatively coupled to said processor-based device to enable storage of data received by said at least one application program (Abstract, Para 0010-0011, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

38. As per Claim 49, Baumgarten discloses wherein said data storage device is at least one

device selected from the group consisting of hard drive, floppy disk, Compact Disc (CD),

Digital Versatile Disc (DVD), and other data storage devices (Abstract, Para 0010-0011, Para

0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

39. As per Claims 50, 52, 63, and 65, Baumgarten discloses wherein said processor-based device

is communicatively coupled to a communication network to enable access by said employer /

candidates to said computer program via said communication network (Abstract, Para 0010-

0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

40. As per Claims 51, 53, 64, and 66, Baumgarten discloses wherein said communication

network is a network selected from the group consisting of: PSTN, wireless communication

network, a proprietary network, general purpose processor-based information network,

dedicated communication lines, computer network, direct PC to PC connection, LAN, WAN,

modem to modem connection, Internet, Intranet, Extranet, or any combination thereof

(Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9,

Fig.1-3).

41. As per Claim 55 as understood by the examiner, Baumgarten discloses wherein said code for

presenting and code for generating are part of a common computer program (Abstract, Para

0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-0046, Clms 1-9, Fig.1-3).

42. As per Claim 56, Baumgarten discloses wherein said code for presenting and said code for

generating are each part of separate computer programs that are capable of communicating

with each other (Abstract, Para 0010-0011, Para 0020-0029, Para 0030-0037, Para 0041-

0046, Clms 1-9, Fig.1-3).

Claim Rejections - 35 USC § 103

43. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness

rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth
> in section 102 of this title, if the differences between the subject matter sought to be patented and the
> prior art are such that the subject matter as a whole would have been obvious at the time the invention
> was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability
> shall not be negatived by the manner in which the invention was made.

44. <u>Claims 11, 20, 39, 60, and 70</u> are finally rejected under 35 U.S.C. 103(a) as being

unpatentable over Baumgarten in view of Nadkarni (US 6,266,659).

45. As per Claims 11, 39, and 60, Baumgarten fails to disclose an IVR application that enables

access by one or more candidates via telephone.

46. Nadkarni teaches an IVR application that enables access by one or more candidates via

telephone (Abstract, C5 L1-13, Fig.1, Fig.3b).

47. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have included an IVR application that enables access by one or more

candidates via telephone, as disclosed by Durand in the system disclosed by Baumgarten, for

the advantage of providing an employment system with the ability to enroll candidates via

telephone, in order to allow a greater selection of communication types.

48. As per Claims 20 and 70, Baumgarten and Nadkarni discloses wherein said at least one

customized application program is executable to schedule a future personal interview with

hiring personnel of the employer and a candidate determined based on said desired hiring

criteria to be qualified for a position of employment with the employer (Nadkarni: Abstract, C10 L10-17).

Allowable Subject Matter

49. The following is a statement of reasons for the indication of allowable subject matter: As per Claims 21 and 71, Nadkarni teaches an application that will automatically determine and provide means for scheduling an interview, but these means involve manual steps including e-mailing or telephoning the employer for available interview times. Nadkarni fails discloses wherein said at least one customized application program interacts with a calendaring program to schedule said future personal interview at a time available for said hiring personnel.

Response to Arguments

50. Applicant's arguments filed 1/28/03 have been fully considered but they are not persuasive. The rejection will remain as final, based on the sited prior art.

51. The argument is made that the Non-provisional of provisional application No. 60/204,776 reference date of 5/17/2000 for Baumgarten may not be valid, due to missing element sin the application. However, the provisional application is in direct line with the application filed on 5/17/2001, and contains identical subject matter. A copy of the Non-provisional of provisional application No. 60/204,776 has been provided as requested for verification purposes.

52. The attorney for the applicant has made the argument that the prior art (Baumgarten) is

lacking the following elements: a computer program generating at least one customized

application program (qualification program) that is executable to interact with candidates for

employment with an employer (based on the hiring criteria of the employer), and at least one

generated customized program application program automatically determining whether each

of the candidates qualifies for a position of employment with the employer.

53. Baumgarten does teach all of the above mentioned elements through the disclosure of a

automatic testing application that is customized for each specific position (Fig.2, Para 0031-

0032), and fit to judge the job-required knowledge level of the potential candidate applying

for the specific job. The testing application is automatically generated once a potential

candidate chooses a specific job through the Internet listing, the test scores are then collected

and ranked for future employer assessment (Fig.3, Para 0034, Para 0048-0049, Claim 4).

Conclusion

54. Any inquiry concerning this communication or earlier communications from the examiner

should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662. The

examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.

55. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor,

John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization

where this application or proceeding is assigned are (703) 305-7687 for regular

communications and (703) 305-3597 for After Final communications.

56. Any inquiry of a general nature or relating to the status of this application or proceeding

should be directed to the receptionist whose telephone number is (703) 306-5484.

jo
March 5, 2003

JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
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